

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v

**Case No.: 2:06-cr-20465
Hon. Nancy G. Edmunds**

D-90 LEE O'BRIEN,

Defendant.

MOTION FOR JURY QUESTIONNAIRE

Through counsel, Mr. Lee O'Brien respectfully requests that this Honorable Court allow the use of a jury questionnaire in this case. In support of his motion, Mr. O'Brien states the following:

1. The use of a jury questionnaire comports with the constitutional rights of an accused. As one court has noted, "a searching voir dire is a necessary incident to the right to an impartial jury." *United States v Bear Runner*, 502 F.2d 908, 911 (8th Cir. 1974).
2. An effective jury questionnaire would allow both Mr. O'Brien and the government, an opportunity to identify those individuals who will best serve as an impartial tribunal. Given the political overtones of this case, a jury questionnaire affords potential jurors a private means to answer questions involving their First Amendment rights and to reveal political affiliations and experiences that they might be unwilling to disclose orally in open court.
3. Rule 24 of the Federal Rules of Criminal Procedure gives a trial court broad discretion in formulating the procedure under which jury selection takes place. Allowing the use of a jury questionnaire is a reasonable method that allows an accused to gather sufficient information about prospective jurors and order to "exercise intelligently their peremptory

challenges.” *United States v Barnes*, 604 F.2d 121, 172 (2d Cir. 1979).

4. The use of a jury questionnaire will further streamline the *voir dire* process while providing a wealth of information in an unintrusive manner.
5. Counsel for Mr. O’Brien contacted the government regarding the use of a jury questionnaire. Counsel for the government indicated that, at this time, the government has not yet taken a position on the use of a questionnaire.

THEREFORE, Mr. O’Brien respectfully requests that this Honorable Court allow the use of a jury questionnaire to be circulated to all the members of the panel from which the jury will be drawn. After the questionnaire is filled out and duplicated, a copy would be furnished to the Court and counsel for both the government and the defense for use during the *voir dire* process.

Respectfully submitted,

KELLEY·BILKOVIC·MARKUS·VITALE

s/Steven M. Vitale

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DATED: July 29, 2011

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2011, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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